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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers	)	CCB/CPD File No. 98-63
	)	
Petition of U S West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA	)	CC Docket No. 98-157

REPLY COMMENTS OF GTE

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November 29, 1999

SUMMARY

GTE's opening comments demonstrated that the Commission should substantially deregulate the access prices of incumbent local exchange carriers, and refrain from reimposing detailed rate regulation, from requiring ILECs to price local or tandem-switching services on a capacity basis, and from tinkering with the price cap formula. GTE also opposed new regulation of the access prices of competitive local exchange carriers. GTE also noted how the CALLS proposal addresses many of the issues in the FNPRM, and should be adopted.

None of the other comments justifies a different outcome. In particular, the Commission should not adopt preconditions to the geographic deaveraging of common line and switching prices. Thus, the Commission should reject proposals that ILECs adopt an artificial forward-looking cost methodology for access rates, set common line rate floors and ceilings, be prohibited from rationally adjusting prices across different classes of customers, or deaverage prices solely on the basis of UNE zones.

Having even less merit are requests by IXCs that the Commission condition geographic deaveraging on wholly unrelated matters. Thus, conditioning geographic deaveraging on forbearance from the enforcement of Section 254(g) on interexchange carriers, or on the creation of UNE platforms, or on the elimination of certain access rate elements, would be improper. Nor should the Commission require that ILECs base geographic deaveraging on the universal service cost model, which the agency has already found unsuited for such purposes.

The Commission also should not either defer setting the triggers for Phase II deregulation or set them at unrealistically high levels. ILECs, CLECs, and the public interest would all benefit from the certainty that will come from setting firm, clearly understandable triggers now. Furthermore, the Commission should not set the triggers too high by requiring a market share test and 75 percent coverage, lest competition be undermined and consumers harmed.

Commenters from a wide range of interests – ILECs, CLECs, and IXCs – universally opposed a mandatory restructuring of switching rates to capacity-based charges. Commenters correctly pointed out that changing the form of these charges would not give rise to economic benefits. The only supporters of the change – certain users – provided no new support for such a change.

The record also shows that adopting a "q" factor would violate price cap principles if switching rates were restructured. There is certainly no basis for imposing a "q" factor in the *absence* of switching charge restructuring. There is no windfall gain by ILECs, and the "q" factor would merely double count efforts already captured by the x-factor. Here, too, GTE has shown that the CALLS proposal provides a more straightforward and supportable solution.

Finally, the Commission should not require a full "g" adjustment to the price cap formula. A full "g" factor would double-count ILEC productivities and systematically bias the formula in favor of IXCs and against ILECs.

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REPLY COMMENTS OF GTE

GTE Service Corporation and its below-listed affiliates (collectively "GTE")[1] respectfully submit their Reply Comments on the Further Notice of Proposed Rulemaking in the above-captioned docket.[2] At a time of ever-increasing competition in

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[1] GTE Alaska, Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, The Micronesian Telecommunications Corporation, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota, Inc., GTE West Coast Incorporated, Contel of the South, Inc., and GTE Communications Corporation.

[2] *Access Charge Reform*, FCC 99-206 (Fifth Report and Order and Further Notice of Proposed Rulemaking) (rel. Aug. 27, 1999) (hereinafter "*Fifth Report and Order*" and "*FNPRM*"). Unless otherwise noted, all comments were filed in CC Docket No. 96-262,

(Continued...)

access services, the record in this proceeding demonstrates that the Commission should significantly deregulate the pricing of access services provided by incumbent local exchange carriers ("ILECs").

In its opening comments, GTE showed how the Commission can responsibly update its access pricing policies in light of current market realities, including immediately allowing ILECs to deaverage geographically common line and switching rates and to establish a clear and reasonable framework for further relief from the rigid Part 69 strictures. GTE also showed that the Commission should avoid, at this late date, micro-managing access prices or tinkering yet again with the price cap formula.

Notwithstanding the daily growth in local access competition, and in what has become an all too predictable pattern, several interexchange carriers ("IXCs") and others have used this proceeding as an opportunity to call once again for the Commission artificially to ratchet down access rates. The FCC should reject these arguments and proceed on a deregulatory path that can benefit the public generally, not just the parochial interests of a few private interests. Moreover, the CALLS proposal obviates the need for many of the FCC's proposals and addresses many of the IXC issues and, therefore, should be adopted as soon as possible.

(...Continued)

et al. on October 29, 1999.

I. ESTABLISHING MORE EFFICIENT AND COMPETITIVE COMMON LINE AND SWITCHING PRICES VIA GEOGRAPHIC DEAVERAGING SHOULD NOT DEPEND ON PRECONDITIONS OR ANTICOMPETITIVE RESTRICTIONS

As GTE explained in its comments, incumbent local exchange carriers ("ILECs") should be allowed to deaverage their common line access charges on a geographic basis without further delay in order to provide proper competitive pricing signals and move prices closer to efficient levels for the benefit of consumers. GTE noted that "deaveraged prices more closely approach cost-based rates than the current averaged rates, and it should be unquestionable that the more accurate price signals generated by deaveraging are in the public interest."[3]

Although no party squarely took issue with the proposition that geographically deaveraged common line prices could more accurately reflect costs and improve pricing signals, several IXCs urged the Commission to condition geographic deaveraging on a laundry list of IXC desires. However, close examination clearly demonstrates that none of the items on the IXC list provides a sound basis for any further delay in ILEC pricing relief.

In particular, there is no need to require ILECs to make any form of competitive showing before they are permitted to deaverage common line prices.[4] Deaveraged

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[3] Comments of GTE at 7 ("GTE").

[4] *See* Comments of MCI WorldCom at 3 ("MCI"). MCI believes that the "Commission's proposal to permit the price cap LECs to deaverage their common line and traffic sensitive rates presents a substantial risk to the development of competition and to consumer welfare...[Therefore the Commission should] establish several

(Continued...)

prices would promote economic efficiency even if competition in exchange access services was nonexistent, and would certainly serve to accelerate efficiency gains in today's highly competitive access market. Accordingly, the Commission should permit ILECs to deaverage common line access elements because it would be inherently beneficial for consumers, even without regard to competitive developments.

In any event, competition grows steadily. The myriad of comments, representing a variety of often competing interests, that support geographic deaveraging attests to its pro-competitive virtues.[5] Further, it is abundantly clear that the CALLS proposal contains certain provisions that, if adopted as part of a comprehensive package of access charge reforms, would address many of the concerns expressed by IXCs regarding the deaveraging of common line prices.

A. Additional Conditions Proposed By Other Commenters Are Either Illegal, Unnecessary Or Anticompetitive

Several commenters urge the Commission to adopt a number of preconditions on deaveraging that are either contrary to precedent, counter to stated Commission policy, or simply anticompetitive. Accordingly, the Commission should not adopt these proposed preconditions.

(...Continued)

conditions that a price cap LEC would have to satisfy before obtaining authority to geographically deaverage common line rates." *Id.* at 2-3.

[5] *See, e.g.*, Comments of BellSouth at 2-3 ("BellSouth"), Comments of General Services Administration at 4-5 ("GSA"), Comments of SBC Communications Inc. at 1-2 ("SBC"), Comments of United States Telephone Association at 3-6 ("USTA").

1. Requiring that all access rates be priced at forward looking economic cost prior to deaveraging would violate the Commission's market-based approach to access pricing and undermine competitive and consumer benefits

MCI suggests that before allowing ILECs to reform access prices, the Commission should first "reduce interstate access charges, including local switching charges, to forward-looking economic cost."[6] Thus, MCI urges the Commission to begin by "immediately opening a proceeding to establish forward-looking cost levels for access."[7] However, MCI's approach directly conflicts with the Commission's stated goal in this proceeding, of transforming the mechanism for establishing prices for interstate access services provided by ILECs into a "market-based approach to drive interstate access charges toward the costs of providing these services."[8] Prescribing a particular ratemaking methodology is flatly inconsistent with this objective.

MCI's proposal to set access prices at so-called "forward-looking economic levels" would undermine the competitive and consumer benefits that could be achieved by deaveraging. In addition, the proposal would dash the Commission's policy objectives. The price cap plan is the mechanism through which the Commission has measured and tracked the level of ILEC costs, and has assured that ILEC revenues are

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6 MCI at 14.

7 *Id.*

8 *Fifth Report and Order*, ¶ 2 (citing *Access Reform First Report and Order*, 12 FCC Rcd 15985, 16094 (1997)).

constrained not to exceed those costs. There is no basis for believing that the current price cap recovery level is uneconomic. The system has worked precisely in the manner the FCC expected. Nor has the Commission adopted a model, or any other method of estimation, which would reliably determine economic costs. The vagaries of forward-looking simulation models for estimating cost are well known. The Commission has been careful to explain that its HCPM cost model exists only for the purpose of comparing universal service costs across states, and not for any other applications.

Furthermore, MCI's proposal has been made repeatedly in previous access charge proceedings, and has been rejected repeatedly because it is inconsistent with a market-based approach to access reform. It should be rejected here as well. It should be no surprise to anyone that the common line rate structure is inefficient, because: some loop costs are still recovered through usage charges, PICCs are an inefficient recovery mechanism, a multiline business customer pays more for the same loop than a single line customer does, and common line charges are geographically averaged.

By allowing ILECs to correct these rate structure problems, the Commission can align the relative levels of common line rates more accurately with costs. This will allow competing access providers, prospective entrants, and customers to make valid comparisons between ILEC prices and those of alternative suppliers, so that the market can perform its proper role of disciplining ILEC common line cost recovery, through the very competition the FCC is seeking to promote.

As GTE stated in its comments, "[t]he public interest in rates more closely aligned with costs justifies allowing access price deaveraging immediately rather than

delaying it indefinitely until other regulatory developments occur. Deaveraging would bring immediate benefits through the promotion of rates more aligned with costs, and more efficient pricing regardless of the state of competition. Further delay would merely further harm the public interest."[9] No evidence presented in this proceeding would support a different conclusion by the Commission.

2. MCI's recommendation that the Commission set a 5 percent ceiling and a 10 percent floor for annual price changes is contrary to the Commission's goal of implementing a market-based approach to access charges

MCI has recommended that "LECs should be limited to increasing their common line rates in any pricing zone by no more than 5 percent per year relative to the change in the price cap index, and should also be limited to reducing their common line rates in any pricing zone by no more than 10 percent per year relative to the change in the price cap index."[10] This is an overly regulatory approach that dates from the early 1990s (when transport rates were deaveraged) and has since been rejected by the Commission. If resurrected here, it would undercut the Commission's goal of implementing a market-based approach to access charges.

First, the Commission already has rejected price floors, by eliminating the lower boundary for service categories within baskets. In doing so, the Commission concluded that price floors were not necessary to protect against predatory pricing. At that time,

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9 GTE at 8-9.

10 MCI at 5.

the Commission adjusted its price cap rules "in order to remove obstacles to lower access prices, and allow incumbent LECs to recover their costs in a manner consistent with the way that costs are incurred."[11]

Second, MCI's request to cap common line prices within a particular zone would reduce the benefits that would otherwise accrue from geographic deaveraging. Were the Commission to cap increases, it once again would be usurping market forces. If the Commission is to remain true to its goals of implementing a "market-based approach to drive interstate access charges toward the costs of providing these services,"[12] and follow through on its plan to "allow incumbent LECs to recover their costs in a manner consistent with the way that costs are incurred,"[13] it must deny MCI's request to set ceilings and floors for common line rates.

While GTE believes that mandatory floors or ceilings are unnecessary and undesirable, it does support the voluntary caps established in the CALLS proposal as part of a more comprehensive solution. Under that proposal, the participating ILECs have agreed to a $7 limit on SLCs.[14] Even MCI has acknowledged the benefits of this

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[11] *Access Charge Reform*, 11 FCC Rcd 21354, 21485 (Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry) ("*NPRM*").

[12] *Fifth Report and Order*, ¶ 2 (citing *Access Reform First Report and Order*, 12 FCC Rcd 15985, 16094 (1997)).

[13] *NPRM*, 11 FCC Rcd at 21485.

[14] The CALLS proposal is an integrated package, in which the $7 cap is supported by an explicit universal service mechanism.

arrangement when it stated that "the price floor/price ceiling mechanism outlined in the CALLS plan could provide a useful model for the Commission."[15] Therefore, rather than dictating prices, the Commission should approve the voluntary CALLS plan and reject out of hand all suggestions that it should return to outmoded rate regulation, which would essentially be duplicative.

3. Contrary to MCI's comments, ILECs should be able to rationalize prices among classes of customers

The price cap scheme developed by the Commission has created an imbalance between the recovery of common line costs in higher and lower cost areas. Seizing on this fact, MCI argues that "[t]he price cap LECs should be permitted to shift revenues foregone as the result of SLC reductions in low-cost areas *only* to SLC rates of the same customer class in other areas."[16]

Again, the Commission should reject the notion – implicit in this proposal – that it should re-involve itself as an arbiter of prices. As residential line SLCs increase, the Commission should not use rate regulation as a tool to prevent carriers from reducing the rate differences between residential and business lines. Carriers should be able to move these costs closer together based on cost because, in essence, there is no cost difference between them.

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[15] MCI at 6.

[16] *Id.* (emphasis added).

This issue also is addressed effectively by the CALLS proposal. In particular, the CALLS proposal would accelerate reform of common line cost recovery. Under that proposal, ILECs would be able to rebalance and reduce the implicit subsidy flowing from business to residential customers. As a result, deaveraged common line rates would more closely reflect cost and savings will be passed on to consumers, rather than channeling them to subsidize other classes of customers as the current system does.

4. ILECs should not be *required* to use UNE zones when geographically deaveraging access rates

MCI has also put forth the proposal that "the deaveraging process should be governed by several competitive safeguards, [including permitting] price cap LECs to deaverage common line rates *only* on the basis of the zones established by the states for unbundled element pricing."[17] MCI justifies this scheme by asserting that "[t]he use of unbundled element pricing zones as the basis for interstate access pricing zones provides at least some assurance that the zones are cost-based and not selected merely to target rate reductions to limited areas of emerging competition."[18]

MCI's recommendation is unnecessary. The purpose of this proceeding is to align access prices more closely with costs. MCI's assumption that UNE zones are, in every instance, the best geographic basis for common line deaveraging is irrational and unsupported. Rather than imposing an artificial and arbitrary regulatory constraint, the

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17 *Id.* at 4 (emphasis added).

18 *Id.*

Commission should allow ILECs the flexibility to define zones in their areas in the manner that proves the most practical and cost efficient. Therefore, ILECs should have the ability to choose a UNE zone if it is the best approach, but should not be forced to do so at the potential sacrifice of providing more economic prices through the application of different zones.

B. Several Other Initiatives Proposed by Commenters Are Unrelated To This Proceeding

1. AT&T's claim that the Commission must forebear from Section 254(g) rate averaging is not properly addressed in this proceeding

AT&T suggests that, when considering geographic rate averaging of interexchange services, the Commission should ensure that "[a]ny geographic deaveraging that is permitted must be accompanied by FCC action forbearing from Section 254(g)'s requirements."[19] This request is inappropriate for several reasons.

First, forbearance from Section 254(g) is unrelated to this proceeding. The Commission is addressing geographic deaveraging of common line exchange access prices, not interstate interexchange rate averaging. It would be arbitrary and capricious to impose unrelated conditions on this rule change.

Second, the Commission already has considered and largely denied AT&T's request for forbearance from Section 254(g).[20] Nothing in the deaveraging of common

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[19] AT&T Comments on LEC Pricing Reform at 3 ("AT&T").

[20] *Policy and Rules Concerning the Interstate, Interexchange Marketplace,* 11 FCC Rcd 9564, 9579-83 (1996).

line rates would affect the Commission's determination that Congress, by enacting Section 254(g), required IXCs to average their rates regardless of cost differences throughout a carrier's service areas. That determination reflected a deliberate policy choice by the Congress that is supported by an extensive background of agency policy decisions in the interexchange market. It is unrelated to exchange access prices.

Third, AT&T raises a non-issue with respect to many customers. The Commission has already forborne from enforcing Section 254(g)'s rate averaging requirements to certain services, specifically optional calling plans, contract tariffs, Tariff 12 offerings, temporary promotions (90-day promotional offerings) and private line services.[21] Therefore, AT&T is already not subject to rate averaging for the larger customers that typically subscribe to such offerings.

Finally, under the Commission's standards, a forbearance request must stand on its own merits. It cannot, as it is here, bootstrap on to an unrelated proceeding. Section 10 of the Act establishes a specific procedure for the consideration of requests for forbearance, and AT&T's request plainly fails to satisfy these statutory requirements.

Although forbearance from Section 254(g) is irrelevant to this proceeding, GTE nevertheless believes that the CALLS proposal reasonably addresses AT&T's concerns. The proposal will favorably affect IXCs and other access customers because it reduces switching charges for all participating price cap carriers, eliminates PICCs, and eventually eliminates the difference between primary and secondary residential line

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[21] *Id.*, 11 FCC Rcd at 9577.

SLCs. Once the PICC and the CCL are phased out, the remaining ILEC rates for switching and transport will be low – half a cent per minute on average – and the absolute variation in these rates across price cap carriers' serving areas will also be less. The result is that access rates will be more similar from region to region than they are now. Therefore, IXCs will, if anything, feel less pressure to "deaverage interstate interexchange service rates in a manner that conflicts with Sections 254(g)."[22]

2. MCI's claim that an ILEC must provide a UNE platform before it is allowed to deaverage is both unnecessary and anticompetitive

MCI also asks the Commission to restrict access to geographic deaveraging of common line rates only to a price cap LEC that provides a "UNE platform" throughout its service area.[23] MCI believes that a UNE platform is required to "prevent price cap LECs from increasing geographically-deaveraged interstate access rates to unreasonable levels, particularly in areas where competition would otherwise develop more slowly."[24] This is a red herring that the Commission need not address here.

First, the entire question of UNE platforms is unrelated to this proceeding.[25] Here, the Commission is addressing geographic deaveraging of common line rates, not assembly of unbundled network elements.

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22 *FNPRM*, at n. 493.

23 MCI at 4.

24 *Id.*

25 The Commission has dealt with this issue in a separate proceeding. *See* (Continued...)